

HB0071S01 compared with HB0071

~~deleted text~~ shows text that was in HB0071 but was deleted in HB0071S01.

Inserted text shows text that was not in HB0071 but was inserted into HB0071S01.

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Representative Raymond P. Ward proposes the following substitute bill:

HEALTH EDUCATION AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions regarding instruction in health.

Highlighted Provisions:

This bill:

- ▶ provides that health education instruction may include information about the medical characteristics, effectiveness, ~~and~~ limitations, and risks of contraceptive methods or devices;
- ▶ reorganizes provisions related to instruction in health;
- ▶ requires the State Board of Education to make administrative rules; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-10-402, as last amended by Laws of Utah 2018, Chapter 224 and renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53G-10-402** is amended to read:

53G-10-402. Instruction in health -- Parental consent requirements -- Conduct and speech of school employees and volunteers -- Political and religious doctrine prohibited.

(1) As used in this section:

(a) "Board" means the State Board of Education.

~~[(b) "Local school board" means:]~~

~~[(i) a local board of education elected in accordance with Section 53G-4-201; or]~~

~~[(ii) a charter school governing board, as defined in Section 53G-5-102.]~~

(b) "LEA governing board" means a local school board or charter school governing board.

(c) "Parent" means a parent or legal guardian.

(d) "Refusal skills" means instruction:

(i) in a student's ability to clearly and expressly refuse sexual advances by a minor or adult;

(ii) in a student's obligation to stop the student's sexual advances if refused by another individual;

(iii) informing a student of the student's right to report and seek counseling for unwanted sexual advances;

(iv) in sexual harassment; and

(v) informing a student that a student may not consent to criminally prohibited activities or activities for which the student is legally prohibited from giving consent, including the electronic transmission of sexually explicit images by an individual of the individual or

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another.

(2) (a) The board shall establish curriculum requirements under Section 53E-3-501 that include instruction in:

- (i) community and personal health;
- (ii) physiology;
- (iii) personal hygiene;
- (iv) prevention of communicable disease;
- (v) refusal skills; and
- (vi) the harmful effects of pornography.

~~[(b) (i) That instruction shall stress:]~~

(b) The state board shall make rules ~~that~~ and state board instruction recommended under Subsection (2)(f) shall:

~~[(A)]~~ (i) stress the importance of abstinence from all sexual activity before marriage and fidelity after marriage as methods for preventing certain communicable diseases; ~~and]~~

~~[(B)]~~ (ii) stress personal skills that encourage individual choice of abstinence and fidelity~~[-]~~;

(iii) prohibit instruction in:

(A) the intricacies of intercourse, sexual stimulation, or erotic behavior;

(B) the advocacy of premarital or extramarital sexual activity; or

(C) the advocacy or encouragement of the use of contraceptive methods or devices; and

(iv) subject to Subsection (2)(d), allow instruction to include information about ~~the~~ medical characteristics, ~~contraceptive methods or devices that stresses~~ effectiveness, ~~and~~ ~~limitations of~~ limitations, risks, and information on state law applicable to minors obtaining contraceptive methods or devices ~~;~~ and.

~~(v)~~ (c) The state board shall make rules for an LEA governing board that adopts instructional materials under Subsection (2)(~~f~~g)(ii) that:

~~(A)~~ (i) require the LEA governing board to report on the materials selected and the LEA governing board's compliance with Subsection (2)(~~f~~h); and

~~(B)~~ (ii) provide for an appeal and review process of the LEA governing board's adoption of ~~the~~ instructional materials.

(d) The state board may not require an LEA to teach or adopt instructional materials

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that include information on contraceptive methods or devices.

~~[(ii)(A)]~~ ~~(f)(e)~~ (i) At no time may instruction be provided, including responses to spontaneous questions raised by students, regarding any means or methods that facilitate or encourage the violation of any state or federal criminal law by a minor or an adult.

~~[(B)]~~ (ii) Subsection ~~[(2)(b)(ii)(A)]~~ ~~(2)(f)(e)~~(i) does not preclude an instructor from responding to a spontaneous question as long as the response is consistent with the provisions of this section.

~~[(c)(i)]~~ ~~(f)(f)~~ The board shall recommend instructional materials for use in the curricula required under Subsection (2)(a) after considering evaluations of instructional materials by the State Instructional Materials Commission.

~~[(ii)]~~ ~~(f)(g)~~ ~~[A local school]~~ An LEA governing board may choose to adopt:

~~[(A)]~~ (i) the instructional materials recommended under Subsection ~~[(2)(c)(i)]~~ ~~(2)(f)(f)~~; or

~~[(B)]~~ (ii) other instructional materials ~~[as provided in board rule]~~ in accordance with Subsection (2)(f)(g).

~~[(iii)]~~ ~~The board rule made under Subsection (2)(c)(ii)(B) shall include, at a minimum:~~

~~[(A)]~~ ~~that the materials adopted by a local school board under Subsection (2)(c)(ii)(B) shall be based upon recommendations of the school district's or charter school's Curriculum Materials Review Committee that comply with state law and board rules emphasizing abstinence before marriage and fidelity after marriage, and prohibiting instruction in:~~

~~[(f)]~~ ~~the intricacies of intercourse, sexual stimulation, or erotic behavior;~~

~~[(H)]~~ ~~the advocacy of premarital or extramarital sexual activity; or]~~

~~[(HH)]~~ ~~the advocacy or encouragement of the use of contraceptive methods or devices;]~~

~~(f)(h)~~ An LEA governing board that adopts instructional materials under Subsection (2)(f)(g)(ii) shall:

(i) ensure that the materials comply with state law and board rules;

(ii) base the adoption of the materials on the recommendations of the LEA governing board's Curriculum Materials Review Committee; and

~~[(B)]~~ (iii) ~~[that the adoption of]~~ adopt the instructional materials ~~[shall take place]~~ in an open and regular meeting of the ~~[local school]~~ LEA governing board for which prior notice is given to parents of students attending the respective schools and an opportunity for parents to

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express their views and opinions on the materials at the meeting[;].

~~[(C) provision for an appeal and review process of the local school board's decision; and]~~

~~[(D) provision for a report by the local school board to the board of the action taken and the materials adopted by the local school board under Subsections (2)(c)(ii)(B) and (2)(c)(iii).]~~

(3) (a) A student shall receive instruction in the courses described in Subsection (2) on at least two occasions during the period that begins with the beginning of grade 8 and the end of grade 12.

(b) At the request of the board, the Department of Health shall cooperate with the board in developing programs to provide instruction in those areas.

(4) (a) The board shall adopt rules that:

(i) provide that the parental consent requirements of Sections 76-7-322 and 76-7-323 are complied with; and

(ii) require a student's parent to be notified in advance and have an opportunity to review the information for which parental consent is required under Sections 76-7-322 and 76-7-323.

(b) The board shall also provide procedures for disciplinary action for violation of Section 76-7-322 or 76-7-323.

(5) (a) In keeping with the requirements of Section 53G-10-204, and because school employees and volunteers serve as examples to their students, school employees or volunteers acting in their official capacities may not support or encourage criminal conduct by students, teachers, or volunteers.

(b) To ensure the effective performance of school personnel, the limitations described in Subsection (5)(a) also apply to a school employee or volunteer acting outside of the school employee's or volunteer's official capacities if:

(i) the employee or volunteer knew or should have known that the employee's or volunteer's action could result in a material and substantial interference or disruption in the normal activities of the school; and

(ii) that action does result in a material and substantial interference or disruption in the normal activities of the school.

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(c) The board or [~~a local school~~] an LEA governing board may not allow training of school employees or volunteers that supports or encourages criminal conduct.

(d) The board shall adopt rules implementing this section.

(e) Nothing in this section limits the ability or authority of the board or [~~a local school~~] an LEA governing board to enact and enforce rules or take actions that are otherwise lawful, regarding educators', employees', or volunteers' qualifications or behavior evidencing unfitness for duty.

(6) Except as provided in Section 53G-10-202, political, atheistic, sectarian, religious, or denominational doctrine may not be taught in the public schools.

(7) (a) [~~A local school~~] An LEA governing board and [~~a local school~~] an LEA governing board's employees shall cooperate and share responsibility in carrying out the purposes of this chapter.

(b) [~~A local school~~] An LEA governing board shall provide appropriate professional development for the [~~local school~~] LEA governing board's teachers, counselors, and school administrators to enable them to understand, protect, and properly instruct students in the values and character traits referred to in this section and Sections 53E-9-202, 53E-9-203, 53G-10-202, 53G-10-203, 53G-10-204, and 53G-10-205, and distribute appropriate written materials on the values, character traits, and conduct to each individual receiving the professional development.

(c) [~~A local school~~] An LEA governing board shall make the written materials described in Subsection (7)(b) available to classified employees, students, and parents of students.

(d) In order to assist [~~a local school~~] an LEA governing board in providing the professional development required under Subsection (7)(b), the board shall, as appropriate, contract with a qualified individual or entity possessing expertise in the areas referred to in Subsection (7)(b) to develop and disseminate model teacher professional development programs that [~~a local school~~] an LEA governing board may use to train the individuals referred to in Subsection (7)(b) to effectively teach the values and qualities of character referenced in Subsection (7).

(e) In accordance with the provisions of Subsection (5)(c), professional development may not support or encourage criminal conduct.

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(8) [~~A local school~~] An LEA governing board shall review every two years:

(a) [~~local school~~] LEA governing board policies on instruction described in this section;

(b) for a local board of education of a school district, data for each county that the school district is located in, or, for a charter school governing board, data for the county in which the charter school is located, on the following:

(i) teen pregnancy;

(ii) child sexual abuse; and

(iii) sexually transmitted diseases and sexually transmitted infections; and

(c) the number of pornography complaints or other instances reported within the jurisdiction of the [~~local school~~] LEA governing board.

(9) If any one or more provision, subsection, sentence, clause, phrase, or word of this section, or the application thereof to any person or circumstance, is found to be unconstitutional, the balance of this section shall be given effect without the invalid provision, subsection, sentence, clause, phrase, or word.